

## PATENT COOPERATION TREATY

## PCT

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PWO041384	<b>FOR FURTHER ACTION</b> See Form PCT/PEA416	
International application No. PCT/GB2004/004521	International filing date (day/month/year) 26.10.2004	Priority date (day/month/year) 27.10.2003
International Patent Classification (IPC) or national classification and IPC E06B9/02, E04H9/14		
Applicant WT (UK) LIMITED et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand  27.05.2005	Date of completion of this report  14.09.2005	
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Khera, D  Telephone No. +49 89 2399-2529	



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**Box No. 1 -Basis-of-the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-8 as originally filed

**Claims, Numbers**

1-33 as originally filed

**Drawings, Sheets**

1/1 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing *(specify)*:
  - ☐ any table(s) related to sequence listing *(specify)*:
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing *(specify)*:
  - ☐ any table(s) related to sequence listing *(specify)*:

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	1-21,24-30
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21,24-30
Industrial applicability (IA)	Yes: Claims	1-21,24-30
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item V: Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1 GB-A-2 359 843  
D2 GB-A-2 381 821  
D3 US-B-6 224 700  
D4 GB-A-1 328 347

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT. In particular, D1, which is regarded as being the closest prior art to the subject-matter of claim 1, discloses (see especially page 2, the four paragraphs after the description of the figures; figures 8 and 9):

A method of forming a barrier against entry of water into a sub-floor ventilator which comprises attaching a barrier 1 to an external surface of said sub-surface ventilator. The subject-matter of claim 1 therefore differs from this known method in that the barrier is attached by adhesion of a self-adherent material.

The problem to be solved by the present invention may therefore be regarded as providing an alternative means of attachment to that proposed in D1.

The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) since adhesion is a general manner of attachment well known to the skilled person. The skilled person would consider the application of the barrier according to D1 by means of a suitable glue as an obvious way of attaching it.

Moreover, the application of self-adherent seals is already well known to the skilled person from their use for example in flashings and joint seals. In particular, D3 describes well known waterproofing techniques in column 1, lines 13-34. The purpose of these techniques is inter alia the exclusion of excessive levels of water from the interior of the a building (cf line column 1, 15). Thus these techniques relate to forming a barrier against entry of water into a building. The techniques considered generally well known and supported by the above passages in D3 include the use of "peel and stick" waterproofing materials which have contact adhesive for adhering to architectural components. Under architectural components, the skilled person would readily include, amongst others, sub-floor ventilators in the form of air-bricks. Hence, at least the adhesion of a self-sealant material to an exterior surface of an architectural

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component to form a barrier against entry of water into a building is common knowledge. The method of claim 1 differs from such well known, by D3-substantiated techniques, only through the application of such common waterproofing material to a sub-floor ventilator of a building.

This difference is considered to be void of any inventive activity since a sane person would form a waterproof barrier wherever there is a danger of undesired entry of water into a building. This could, amongst other things include, subfloor ventilators.

Moreover, the application of waterproofing material such silicon mastic is commonly known to the skilled person for forming a barrier against water. The use of such a material to waterproof a sub-floor ventilators would thus also occur to the skilled person, especially if such mastic was all there was at hand.

Hence the subject-matter of claim 1 is considered to be obvious in view of D1, in view of D3 and also in view of the general knowledge of the skilled person.

3. The subject-matter of dependent claims 2 to 21 is also considered to lack an inventive step:

C2,3,4,5,10,11,26-29 Known per se from D1.

C6, 30 Obvious in view of the self-adhesive strips according to D3.

C7-9 Obvious in view of the flexible barrier material known from D3.

C12,13,14 Obvious in view of the peel-back layer of the sealant according to D3.

C15-19 Generally known synthetic materials for adhesive tapes (cf D4).

C20 Release liner known from D3.

C21 Obvious in view D1 and D3 of paragraph 2 above.

C24, 25 Obvious in view of application of self-adhesive strip according to D3.

**Re Item VII: Certain defects in the international application**

4. Prior art document D1 needs to be mentioned in the description and the prior art disclosed therein briefly discussed.
5. Claim 1 needs to be cast in the correct two part form based on the discloser of D1.

**Re Item VIII: Certain observations on the international application**

6. The subject-matter of claims 22, 23, 31, 32 and 33 is unclear in scope (Article 6 PCT) since it makes reference to matter not in the claims.